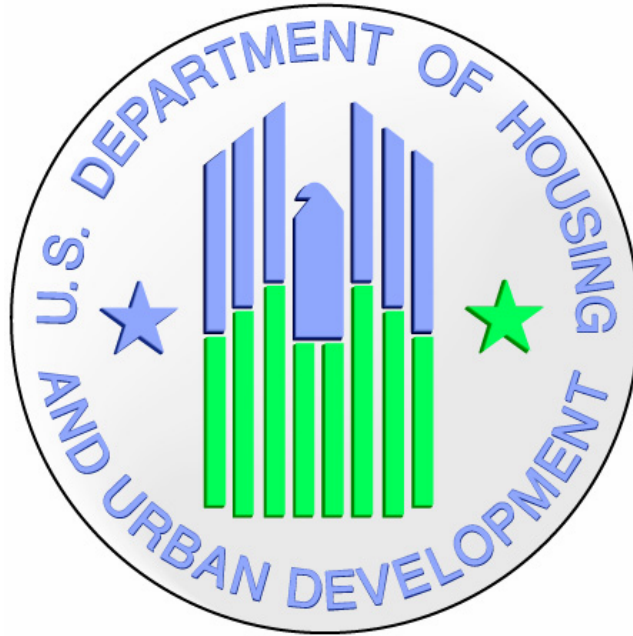


**STATEMENT OF JOHN C. WEICHER**  
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**Commissioner**  
**U.S. Department of Housing and Urban Development**



**BEFORE THE**  
**UNITED STATES SENATE**  
**SPECIAL COMMITTEE ON AGING**

**February 24, 2004**

Good morning, Chairman Craig, Ranking Member Breaux and distinguished Members of the Special Committee. Thank you for the opportunity to testify on the efforts of the Department of Housing and Urban Development to combat predatory lending and protect senior citizens and indeed all Americans against unfair and deceptive practices. Meeting the housing needs of senior citizens while protecting them from predatory lending practices is a high priority at the Department.

I would like to provide you with an overview of HUD's initiatives and describe what HUD, particularly through the Federal Housing Administration (FHA) is currently doing to address this problem.

FHA has made significant efforts through consumer education, enforcement actions and regulatory reforms to combat abusive and deceptive lending practices. Before I discuss the full range of these efforts across all our insurance programs, I would like to describe FHA's mortgage insurance activity to the Committee, to place our efforts in context. FHA insures mortgages for homebuyers who do not qualify for conventional mortgage loans. Our typical borrower is a young, first-time homebuyer, often a minority household. In FY 2003, FHA insured 600,000 home purchase mortgages. Of these, 80 percent were to first-time homebuyers, and 40 percent of those were to minority households.

Of special interest to this committee, about one percent of FHA's borrowers are elderly (65 or over) and another one percent are between the ages of 60 to 64. About 20 percent of FHA-insured elderly homebuyers purchase manufactured homes, compared to less than two percent of young homebuyers. Over 4.4 percent of FHA borrowers who bought manufactured homes were 60 and over.

#### Home Equity Conversion Mortgages

FHA does have one important insurance program that specifically serves the elderly. This is the Home Equity Conversion Mortgage Program. At HUD, we refer it as HECM for short. The HECM program, commonly referred to by consumers as a reverse mortgage program, is designed to enable elderly homeowners to convert the equity in their homes into income that can be used to pay for home improvements, medical costs, living expenses, or other expenses. FHA accounts for about 95% of the reverse mortgage market.

The HECM program started as a demonstration program in 1990 and was seen as a true innovation in the mortgage industry, a way of helping elderly people who were house rich but cash poor. The program became permanent in 1993. In the last two years—2002 and 2003—the program has been growing at a rapid rate. We set records in both of these years. We endorsed over 13,000 loans in 2002 and then set another record in 2003 with over 18,000 loans.

According to demographic data on new borrowers in the HECM program over the last three years, 50 percent are between 70 and 79. Another 25 percent are 80 or over, so three quarters of the borrowers are 70 or over. There are even some borrowers older than 90: they comprise 3.2 percent of the total.

#### Housing Counseling

We recognize that seniors with considerable equity in their homes can be prime targets for predatory lending. We require that seniors considering a HECM loan receive counseling, and we have worked hard to ensure that the counseling they receive before applying is of high quality.

HUD believes that our frontline of protection against predatory lending is an informed consumer. Housing counseling has proven to be an extremely important activity to educate consumers on how to avoid abusive lending practices. Housing counseling agencies help educate borrowers, so they have the financial literacy they need to protect themselves. Counselors assist individuals with making intelligent decisions, helping unwary borrowers avoid inflated appraisals, unreasonably high interest rates, unaffordable repayment terms, and other conditions which can result in a loss of equity, increased debt, default, and even foreclosure.

During the housing counseling session the senior learns how a HECM works, how much equity he or she would receive through a HECM, how much the transaction will cost, what are the financial alternatives to a HECM and what are the tax and estate consequences, among other things.

One of HUD's major partners in our effort to educate seniors about reverse mortgages is the AARP Foundation. The AARP Foundation sponsors the Reverse Mortgage Education Project which is designed to help older homeowners make informed decisions about converting the equity in their homes into cash - without having to sell their homes, or make monthly loan repayments. This project has been the leading consumer voice in the reverse mortgage market for over a decade, providing in-depth, objective consumer information, and promoting high-quality, independent consumer counseling on reverse mortgages and other alternatives.

During 2003, the Reverse Mortgage Education Project doubled the size of its counseling network, handled 10,000 consumer inquiries and counseled 3,400 households. The Project recently received a 150% increase in funding from HUD – from \$750,000 in 2003 to \$1.9 million in 2004. The increase will enable the project to add more counselors and nearly triple the number of households it counsels. It will also pay for upgrading the project's online reverse mortgage calculators, developing a formal counseling quality assurance program, and strengthening the project's client screening and appointment scheduling systems.

HUD's funds AARP through its Housing Counseling Grant Program. This grant program funds housing counseling agencies across the country. In FY 2003, HUD awarded \$37.6 million in grants, \$2.7 million being awarded specifically to combat predatory lending. These grants will assist more than 430,000 people to either become first-time homeowners or remain homeowners after their purchase. The grants were awarded to 17 national and regional organizations and approximately 350 state and local housing counseling agencies. President Bush is proposing to increase HUD's Housing Counseling grant program to \$45 million next year - another 12.5 percent increase. We know that housing counseling works. Families who receive counseling are better able to select the best mortgage for their needs and better able to manage their finances so they can remain in their homes.

#### HECM Regulatory Changes

In addition to pursuing our housing counseling efforts, HUD has undertaken several regulatory reforms in recent years to protect seniors participating in the HECM Program from predatory practices. These rules include:

- A final rule that would implement statutory changes to the HECM Program under Section 201 of the American Homeownership and Economic Opportunity Act of 2000. This legislation authorized FHA to offer mortgage insurance for the refinancing of existing HECM loans and established a set of consumer safeguards for these HECM refinancing transaction. The statute requires an anti-churning disclosure to inform the borrower of the total cost of the refinancing and the new principal limit. The Department submitted this rule to OMB on February 3.
- A final rule was published in 1999 requiring that seniors receive a full disclosure of all costs, including estate planning, financial advice and other services that are related to the mortgage, but are not required to obtain a HECM loan. This rule was designed to protect senior homeowners in the HECM program from becoming liable for payment of excessive fees for third party services that may have little or no value and are not necessary.

### Combating Predatory Lending

In addition to the reforms that HUD has pursued in the HECM program, the Department has developed new requirements specifically targeting lending practices to protect all FHA borrowers and set an example for the rest of the housing industry. These reforms benefit all of FHA's homebuyers, including the elderly.

In particular, there are several new, more stringent procedures for participating in FHA insured programs that have been implemented as final rules. They include:

- An Anti-Flipping Rule that was made effective in June 2003. This rule prohibits FHA insurance on a property resold within 90 days of the previous sale and also prohibits sale of a property by anyone other than the owner of record.
- An Appraiser Qualifications Rule for Placement on FHA Single Family Appraiser Roster that was made effective in June 2003. This rule establishes stronger professional credentials for FHA-approved appraisers.
- A rule establishing Section 203(k) Consultant Placement and Removal Procedures that was made effective in September 2002. The rule establishes placement and removal procedures for HUD's roster of 203(k) consultants to better ensure the consultants meet HUD requirements. The 203(k) program insures mortgages for home purchases that include the costs of repairs as well as the purchase price.
- A rule allowing Electronic Submission of Audited Financial Statements that was made effective in September 2002. This rule allows HUD to accept electronic submissions of lenders' financial audits to identify and remove noncompliant lenders more quickly.
- A rule establishing Placement and Removal Procedures for HUD's Nonprofit Organization Roster that was made effective in July 2002. This rule better insures that nonprofits meet HUD requirements.

There are also proposed rules we have published:

- A proposed rule Limiting Nonprofit Organization Participation in FHA Single Family Activities was just published on February 13. This rule proposes ways to reduce defaults

by nonprofits and create more reasonable conditions for their participation in FHA programs. It would require nonprofits that obtain FHA financing for 10 or more properties in a fiscal year to prepay at least 80 percent of that total number of mortgages within two years after the fiscal year they were originated.

- A proposed Rule Regarding Lender Accountability for Appraisals that was published in January 2003. This rule provides that lenders and appraisers are held strictly accountable for the quality of appraisals on properties securing FHA insured mortgages. It proposes that lenders who submit appraisals to HUD that do not meet FHA requirements are subject to the imposition of sanctions by the Mortgagee Review Board. The final rule is expected to be published in the second quarter of this calendar year.
- A proposed rule on the FHA Fee Panel Inspector Roster that was published in October 2002. This rule creates the FHA Fee Panel Inspector Roster for inspecting new construction projects.

### Monitoring and Enforcement

In addition to establishing more stringent procedures for participating in FHA insured programs, the Department is taking aggressive action concerning business partners that demonstrate poor performance and abusive lending practices.

HUD has created the Credit Watch Program by which we track quarterly the default rates for the 25,000 lender offices that originate FHA loans and terminates those operations where the default rate exceeds twice that of the local jurisdiction. Credit Watch protects the integrity of the FHA insurance funds and sanctions those lenders who demonstrate imprudent or possible abusive lending practices. The default rates of these lenders are published on the Web and thereby serve as a source of information by which other lenders and interested parties can judge a lender's performance.

Since Credit Watch started in May 1999, we terminated 205 lender branches and sent out another 19 sanction letters through December 2003. That is about one percent of FHA lender offices.

FHA also produces Neighborhood Watch, a web-based software application, for HUD oversight of lenders and lender self-monitoring. Neighborhood Watch complements the Credit Watch Termination initiative by providing FHA approved lenders with statistical views of their performance. As a self-policing tool it has enabled lenders to monitor their performance in comparison to other lenders, take corrective actions within their own organizations, and/or sever relationships with poorly-performing business partners.

When FHA staff finds evidence of widespread abuse of HUD's program requirements, lenders are referred to the Mortgagee Review Board. (MRB) for action. I chair the MRB and other senior HUD officials serve on the Board. Board cases generally involve the most serious findings. The MRB is authorized to impose a range of administrative sanctions from a letter of reprimand to withdrawal of a mortgagee's FHA approval. The MRB may also impose civil money penalties.

FHA monitors the activities of lenders down to the branch level. Based on these reviews, over the past three years, the MRB took action against 137 lenders, withdrew FHA approval of 36 of them, and assessed \$9.59 million in civil money penalties. Also, 8,980 indemnification

agreements were executed for a potential total savings of about \$209 million. When we find loans that are improperly originated or underwritten, we require indemnification- if the loan goes bad, the lender pays, not our insurance fund. We made over 1,100 referrals to the OIG for further investigations. We have debarred 407 individuals and entities from participating in FHA's Single-Family Programs.

FHA has also created a new risk management tool to target appraisers for review, known as "Appraiser Watch." Appraiser Watch uses traditional risk factors – such as loan volume, loan performance, and loan type – to compare appraisers across peer groups and identify appraisers for review. With Appraiser Watch, FHA can better identify appraisers who either knowingly or unintentionally put homeowners at risk for losing their homes to foreclosure because of inflated valuations and sometimes the poor condition of the property.

Through Appraiser Watch, FHA has identified over 100 poorly performing appraisers each year and removed them from the FHA Appraiser Roster. The review versus removal rate under this new system is about one percent. Appraiser Watch is a major improvement over the appraiser monitoring system we inherited. Under that former appraiser monitoring system, FHA field staff reviewed more than 30,000 appraisals annually from October 1997 through September 2001, but identified only 20 poorly performing appraisers each year.

#### Interagency Enforcement Activities

HUD works closely with state and local governments to carry out enforcement actions against business partners engaged in predatory lending. On a national level, HUD's Office of Inspector General continues to work closely with law enforcement in many states, notably in New York, New Jersey, Pennsylvania, Illinois and Arizona, to target unscrupulous lenders and better combat abusive lending practices. In many of these areas HUD is working with coalitions of community groups to provide relief to FHA insured borrowers who have been victimized by predatory practices.

HUD has tripled its RESPA investigative staff from ten full time staff to thirty full time, and has increased funding for investigation and enforcement of fair housing and RESPA violations, with a new \$1.5 million investigation contract and an additional \$500,000 for Fair Housing investigations. Recent RESPA violation settlements have led to more than \$1.5 million in donations by lenders to HUD-approved counseling services.

HUD also works closely with the Department of Justice, federal financial regulators and the Federal Trade Commission to distinguish between predatory practices of some lenders and others whose practices are fairly serving the mortgage credit needs of those not qualified for prime loans. In November 2003, HUD and the FTC jointly filed a case against and reached settlement with a mortgage loan servicing company charged with violations of the FTC Act, RESPA, and other laws.

#### Public Education

HUD is committed to increasing awareness in the public about predatory lending. HUD has developed literature about predatory lending and distributes this information at homeownership fairs and other public forums. HUD's website also includes information on the subject.

In addition, HUD has partnered with other organizations in public education campaigns about predatory lending. In early 2004, HUD will launch a national advertising campaign to warn

against the dangers of predatory lending. The \$1 million campaign consists of print, radio, and television ads. The ads are being produced under a contract with the National Fair Housing Alliance and the Ad Council. HUD is also a member of the Interagency Task Force on Fair Lending. HUD worked with the task force in drafting a new brochure that alerts consumers to potential borrower pitfalls, including high cost loans and provides tips for getting the best financial deal possible.

### Loss Mitigation

HUD also addresses predatory lending through its Loss Mitigation Program, which is often able to help a victim of predatory lending who has defaulted on the mortgage and faces possible foreclosure. Under this program, lenders have options that may help homeowners stay in their homes or may mitigate the financial consequences of the default if the homeowner does not have the resources to make that possible. FHA regulations require that lenders explore all available loss mitigation options prior to proceeding to foreclosure. The success of this program is clear. In the last two years, the number of loss mitigation cases resolved by the borrower retaining homeownership is nearly as large as the number of cases resolved through foreclosure.

### The Baltimore Predatory Lending Task Force

In early 2000 the Department initiated a wide-ranging inquiry into the impact of predatory lending on loans insured by the FHA. The Department established a "Flipping and Predatory Lending Task Force" in Baltimore City to study predatory lending activity at a community level over a long term. At the time substantial number so delinquent and potentially predatory loans were originated in Baltimore by multiple entities (of 595 case files reviewed, 100 were determined to have predatory characteristics involving many different lenders, investors, appraisers, closing agents, and straw buyers).

Today, predatory lending in Baltimore is on the decline. Forty-eight criminals have been indicted and jailed. A HELP program, funded in part by a \$1 million grant from HUD, has been established to provide victim's assistance. Property flipping of FHA loans has been eliminated, and homeownership counseling has helped home purchasers avoid the pitfalls of predatory lending practices. These accomplishments have been realized thanks to coordination with the Department of Justice, the State of Maryland, the Baltimore City Government and local community groups.

### Conclusion

I hope this discussion of our efforts and accomplishments has made clear that the Administration and the Department are aggressively policing its participants and imposing significant sanctions on business partners found to be violating procedures or otherwise engaged in abusive or deceptive behavior. The Administration and the Department remain firmly committed to protecting seniors and all consumers against predatory lending practices. We are happy to have this opportunity to discuss our activities, and look forward to working with you to strengthen consumer protections against predatory lending.

This concludes my statement, Mr. Chairman. I thank the Committee for the opportunity to meet with you today to discuss this important issue.